



IN THIS ISSUE

- TRAINING OPPORTUNITIES
- DOCUMENTING CHARITY CARE AND COMMUNITY BENEFIT
- MARKET VALUES OF HOSPICES REMAIN HIGH
- HEALTHCARE MARKET RESOURCES

FUTURE WITHHOLDING OF MEDICARE REIMBURSEMENT TO FOR-PROFIT HEALTHCARE PROVIDERS

For future budgeting and planning purposes, for-profit healthcare providers should be aware of a new provision in the Internal Revenue Code, resulting from the Tax Increase Prevention and Reconciliation Act of 2005 (ACT).

Subsection 3402(t) of the Internal Revenue Code (Code) now requires federal, state, and local governments and multi-state agencies to withhold three percent of all government payments made to for-profit entities for property and services effective January 1, 2011. Thus, for-profit entities supplying goods or services to Medicare program beneficiaries, paid by the Medicare program, will initially receive payment of 97 percent of the amount to which they are entitled. The withholding will be returned after the for-profit entity files its annual income tax returns.

This withholding would apply to Medicare payments to all Part A providers, physicians and suppliers reimbursed under Medicare Part B, as well as health plans under Medicare Parts C and D.

This provision does not apply to tax-exempt or governmental entities or payments related to the Medicaid program.

Section 511 of the ACT, which amends Subsection 3402 is as follows:

Section 511. Imposition of Withholding on Certain Payments Made By Government Entities.

(a) In General- Section 3402 is amended by adding at the end the following new subsection:

(t) Extension of Withholding to Certain Payments Made by Government Entities-

(1) GENERAL RULE- The Government of the United States, every State, every political subdivision thereof, and every instrumentality of the foregoing (including multi-State agencies) making any payment to any person providing any property or services (including any payment made in connection with a government voucher or certificate program which functions as a payment for property or services) shall deduct and withhold from such payment a tax in an amount equal to 3 percent of such payment.

(2) PROPERTY AND SERVICES SUBJECT TO WITHHOLDING- Paragraph (1) shall not apply to any payment—

continued inside



TRAINING OPPORTUNITIES

Comprehensive Hospice Cost Reporting & Reimbursement Management Training

December 4-5, 2006
Hotel Monteleone
New Orleans, LA

Health Services Publishing & Management, an activity of Dixon Hughes PLLC, will offer a two-day educational training opportunity, Comprehensive Hospice Cost Reporting & Reimbursement Management Training.

- Interactive and Informative
- Limited Space Available
- Register Today

Additional Questions? Visit www.healthspm.com or contact Margie Pringle by e-mail at mpringle@dixon-hughes.com. Advance materials are available.

Detecting Fraud and Financial Abuse in Your Healthcare Organization Webinar/Teleconference

January 18, 2007, 2:00 PM EST

Fraud in the U.S. costs businesses more than \$660 billion annually, and healthcare finances are not immune to the fraud epidemic. Register online at www.dixon-hughes.com/healthcare for a FREE fraud webinar. Discover tools to detect and prevent fiscal abuse in your business and accounting offices.

Led by Dixon Hughes Member Gary Mathes, a former Special Agent with the Criminal Investigation Division of the IRS, this webinar will help you discover steps you can take to prevent fraud from happening on your watch.

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- (A) *except as provided in subparagraph (B), which is subject to withholding under any other provision of this chapter or chapter 3,*
- (B) *which is subject to withholding under section 3406 and from which amounts are being withheld under such section,*
- (C) *of interest*
- (D) *for real property,*
- (E) *to any government entity subject to the requirements of paragraph (1), any tax-exempt entity, or any foreign government,*
- (F) *made pursuant to a classified or confidential contract described in section 6050M(e)(3),*
- (G) *made by a political subdivision of a State (or any instrumentality thereof) which makes less than \$100,000,000 of such payments annually,*
- (H) *which is in connection with a public assistance or public welfare program for which eligibility is determined by a needs or income test, and*
- (I) *to any government employee not otherwise excludable with respect to their services as an employee*

(3) *COORDINATION WITH OTHER SECTION- For purposes of section 3403 and 3404 and for purposes of so much subtitle F (except section 7205) as relates to this chapter, payments to any person for property or services which are subject to withholding shall be treated as if such payments were wages paid by an employer to an employee.*

(b) *Effective Date- The amendment made by this section shall apply to payments made after December 31, 2010.*

Unless altered by subsequent legislation, this withholding would have significant cash-flow impact on many for-profit hospices and home health agencies.

THE IMPORTANCE OF DOCUMENTING CHARITY CARE AND COMMUNITY BENEFIT

The trends at both the national and state levels relating to obtaining and maintaining tax-exempt status are obvious. Tax-exempt healthcare providers need to have accounting and other financial reporting processes in place to identify and report charity care provided and community benefits made available in support of the exemption for federal, state and local property taxes.

The healthcare industry has been closely watching the case involving Provena Covenant Medical Center in Urbana, Illinois. The Illinois Department of Revenue has determined that the hospital no longer qualifies for exemption from Illinois property taxes. According to the record, the hospital spent only 0.7 percent of its 2002 revenues on charity care, while its property tax exemption was valued in excess of \$1 million.

All tax-exempt healthcare providers should carefully review the following:

- 1) Charity care provided is recognized in the accounting records and reported in both the Form 990 filing and the financial statements. The measurement of charity is currently based on lost revenues, costs or other measurements; however, we recommend that healthcare providers report multiple measurements.
- 2) Procedures be established for tracking revenue shortfalls (Medicaid, for example) and the conversion to those lost revenues to costs and reporting such shortfalls in both the Form 990 and financial statements. These do not represent charity care.
- 3) Procedures be established for tracking other community benefits provided for which there is little or no reimbursement and reporting those benefits as well.
- 4) Sliding fee schedules relating to the determination of charity eligibility be carefully reviewed. In the Provena case, the Department of Revenue found it impossible to determine that the hospital's sliding scale discount was charity and referred to this discount as "the illusion of charity."

The Catholic Health Association (CHA) has published *A Guide for Planning and Reporting Community Benefit*, which provides comprehensive guidance for ongoing procedures, identification of community benefit, accounting for community benefit, and reporting those activities and benefits. For additional information visit www.chausa.org. We commend CHA for their efforts regarding this matter.

Of course, if Dixon Hughes can provide any assistance in regards to your tax-exempt submissions or assist in your efforts to document and report the tax-exempt efforts of your organization, do not hesitate to contact us.

HOSPICE CARE NEWS: IN CONTEXT

Hospice Care News: In Context is a quarterly publication intended for Administrators, CEOs, CFOs, accounting personnel, compliance officers and clinical management personnel at hospice providers. The publication is intended to:

- Highlight current developments relating to financial and compliance matters for hospice providers
- Address cost reporting issues for providers
- Notify providers of educational offerings for hospice personnel
- Provide informative, although limited, discussion of topics of interest in the management of hospice providers

The newsletter is intended to benefit all types of hospice providers, whether they be free-standing, hospital based, home health agency based, tax-exempt, proprietary or governmental.

Other providers that deal continuously with hospice providers, such as nursing homes, home health agencies, physicians or hospitals may also find the newsletter of benefit to them. It may also be of benefit to Board members or others responsible for oversight of the activities of a hospice. If you desire others to receive a copy of this newsletter, do not hesitate to contact us.

Your comments regarding this newsletter, including ideas for future topics, are also appreciated.

LOCATIONS

Alabama

Birmingham 205.212.5300

Georgia

Atlanta 404.575.8900

North Carolina

Asheville 828.254.2254

Boone 828.262.0997

Burnsville 828.682.2876

Charlotte - SouthPark 704.367.7020

Charlotte - Uptown 704.334.3600

Durham 919.484.0630

Greensboro 336.383.5200

Greenville 252.321.0505

Hendersonville 828.692.9176

High Point 336.889.5156

Raleigh 919.876.4546

Salisbury 704.636.9090

Sanford 919.776.0555

Southern Pines 910.692.8555

Sylva 828.586.6200

Winston-Salem 336.714.8100

South Carolina

Greenville 864.288.5544

Spartanburg 864.583.5800

Tennessee

Brentwood (Nashville) 615.312.8272

Memphis 901.684.2277

Texas

Dallas/Fort Worth 817.276.4100

West Virginia

Clarksburg 304.622.0804

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.



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MARKET VALUES OF HOSPICES REMAIN HIGH

Over the past few years, there has been significant activity in the acquisition of both for-profit and tax-exempt hospices. The reasons are clear:

- 1) The demographics clearly reflect an increasing demand for hospice services
- 2) The hospice population continues to move from mostly cancer populations to non-cancer populations
- 3) The federal government, while beginning to recognize that Medicare reimbursement changes need to be made, also recognizes the cost-savings achieved through the provision of hospice services compared to alternative treatments

Dixon Hughes has been substantially involved in the merger/acquisition activities of hospices. These activities continue to be strong. Key factors relating to the value of hospices include ability to manage expenses, competition, geographical location, quality of clinical services provided, quality of financial information available, and management personnel and style. Hospices looking to potentially merge with others or sell in the future should recognize those attributes that make them attractive and enhance those characteristics before embarking on a merger/acquisition. While potential is important, history is more important.

ARE YOU AWARE OF HEALTHCARE MARKET RESOURCES?

Dixon Hughes is constantly on the alert for resources that can provide valuable information and services to our healthcare clients. Hospices may find that Healthcare Market Resources has information that can assist them in their assessment of market-related data.

Recently Healthcare Market Resources announced the availability of its hospice market profiles, similar to those available for home health agencies in the past. The hospice report set is based on a nationwide Medicare claims database and reports can be customized to your specific geography. The reports allow hospices to review how they stack up against their competitors in terms of market share, including patient days, dollars and disease groups. Information relating to levels of care and length of service will be available shortly.

If you have an interest in market-related information, contact Healthcare Market Resources at rchesney@healthmr.com.